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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dispute No. WTO/DS422]

WTO Dispute Settlement Proceeding Regarding United States – Anti-Dumping Measures on Certain Shrimp and Diamond Sawblades from China

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that the People’s Republic of China has requested the establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (“WTO Agreement”). That request may be found at www.wto.org contained in a document designated as WT/DS422/3. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before December 7, 2011, to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to www.regulations.gov, docket number USTR-2011-0002. If you are unable to provide submissions by www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

FOR FURTHER INFORMATION CONTACT: Jared Wessel, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508, (202) 395-3150.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (“URAA”) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that a dispute settlement panel has been established pursuant to the WTO Dispute Settlement Understanding (“DSU”). The panel will hold its meetings in Geneva, Switzerland.

Major Issues Raised by China

On December 8, 2004, the U.S. Department of Commerce published in the Federal Register notice of its affirmative final less-than-fair-value (“LTFV”) determination in the antidumping investigation concerning certain frozen and canned warmwater shrimp from China (69 FR 70997). On February 1, 2005, the Department of Commerce published notice of an amended final LTFV determination, along with an antidumping duty order (70 FR 5149). That amended final LTFV determination has been subsequently amended. On May 24, 2011, the Department of Commerce published notice of an amended final LTFV determination pursuant to a court decision (76 FR 30100). The latter two notices contain the most recent margins of LTFV sales.

On May 22, 2006, the Department of Commerce published in the Federal Register notice of its affirmative final LTFV determination in the antidumping investigation concerning diamond sawblades and parts thereof from China (71 FR 29303). On June 22, 2006, the Department of Commerce published notice of an amended final LTFV determination (71 FR 35864) and on November 4, 2009 the Department published the antidumping duty order (74 FR 57145). The latter notice contains the most recent margins of LTFV sales.

In its request for the establishment of a panel, China alleges that the Department of Commerce improperly calculated margins of dumping by “zeroing” so-called “negative dumping margins.” Based on the use of zeroing, China alleges that the final LTFV determinations and the antidumping duty orders are inconsistent with the first sentence of Article 2.4.2 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994. In this regard, on March 6, 2006, the Department of Commerce announced that it will no longer use “zeroing” when making average-to-average comparisons in an antidumping investigation. *See* 71 FR 11189.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to www.regulations.gov docket number USTR-2011-0002. If you are unable to provide submissions by www.regulations.gov,

please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via www.regulations.gov, enter docket number USTR-2011-0002 on the home page and click “search”. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the search-results page, and click on the link entitled “Submit a Comment.” (For further information on using the www.regulations.gov website, please consult the resources provided on the website by clicking on “How to Use This Site” on the left side of the home page.)

The www.regulations.gov site provides the option of providing comments by filling in a “Type Comments” field, or by attaching a document using an “upload file” field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “Type Comments” field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to

Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to www.regulations.gov. The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. § 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter –

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page; and
- (3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to www.regulations.gov. The non-confidential summary will be placed in the docket and open to public inspection.

Pursuant to section 127(e) of the Uruguay Round Agreements Act (19 U.S.C. § 3537(e)), USTR will maintain a docket on this dispute settlement proceeding accessible to the public at www.regulations.gov, docket number USTR-2011-0002. The public file will include non-confidential comments received by USTR from the public with respect to the dispute. If a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute, will be made available to the public on USTR’s

website at www.ustr.gov, and the report of the panel, and, if applicable, the report of the Appellate Body, will be available on the website of the World Trade Organization, www.wto.org. Comments open to public inspection may be viewed on the www.regulations.gov website.

William Busis,
Deputy Assistant United States Trade Representative
for Monitoring and Enforcement

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